

# **EDMONDS CITY COUNCIL APPROVED MINUTES**

## **May 17, 2016**

### **ELECTED OFFICIALS PRESENT**

Dave Earling, Mayor  
Kristiana Johnson, Council President  
Michael Nelson, Councilmember  
Adrienne Fraley-Monillas, Councilmember  
Diane Buckshnis, Councilmember  
Dave Teitzel, Councilmember  
Thomas Mesaros, Councilmember  
Neil Tibbott, Councilmember

### **ELECTED OFFICIALS ABSENT**

### **STAFF PRESENT**

Al Compaan, Police Chief  
Phil Williams, Public Works Director  
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.  
Shane Hope, Development Services Director  
Frances Chapin, Arts & Culture Program Mgr.  
Rob English, City Engineer  
Sean Conrad, Planner  
Jeff Taraday, City Attorney  
Scott Passey, City Clerk  
Jerrie Bevington, Camera Operator  
Jeannie Dines, Recorder

### **1. CALL TO ORDER/FLAG SALUTE**

The Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Earling in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds. The meeting was opened with the flag salute.

### **2. ROLL CALL**

City Clerk Scott Passey called the roll. All elected officials were present.

### **3. APPROVAL OF AGENDA**

Council President Johnson requested the addition of Fishing Pier Rehabilitation Project Report as Item 9.2.

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE THE AGENDA IN CONTENT AND ORDER AS AMENDED. MOTION CARRIED UNANIMOUSLY.**

### **4. APPROVAL OF CONSENT AGENDA ITEMS**

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:**

- 1. APPROVAL OF COUNCIL MEETING MINUTES OF MAY 10, 2016**
- 2. APPROVAL OF CLAIM CHECKS**
- 3. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM KUO SUN (\$2,847.78)**

4. **AUTHORIZATION FOR MAYOR TO SIGN INTERLOCAL AGREEMENT BETWEEN THE CITY OF EDMONDS AND SNOHOMISH COUNTY FIRE DISTRICT NO. 1 REGARDING CLASSES**
5. **AUTHORIZATION FOR MAYOR TO SIGN A RIGHT OF WAY DEDICATION DEED ON 218TH ST. FOR SELECT HOMES, INC.**
6. **AUTHORIZATION FOR MAYOR TO SIGN A SUPPLEMENTAL AGREEMENT WITH REID MIDDLETON, INC. FOR THE NORTHSTREAM PIPE ABANDONMENT AND CULVERT REHABILITATION PROJECT**
7. **INTERLOCAL AGREEMENT WITH CITY OF LYNNWOOD FOR SPECIALIZED EQUIPMENT**

5. **PRESENTATIONS/REPORTS**

1. **2016 NATIONAL POLICE WEEK PROCLAMATION**

Mayor Earling read a proclamation declaring May 15-21, 2016 as Police Week in the City of Edmonds. He presented the proclamation to Police Chief Al Compaan. Chief Compaan invited the public to join the Police Department on Thursday, May 19 at 6:00 p.m. in Council Chambers for the Annual Awards ceremony where members of the department as well as members of the general public who have made extraordinary contributions are recognized. On behalf of the Police Department he thanked the Council for the Proclamation.

2. **EDMONDS ARTS COMMISSION ANNUAL REPORT FOR 2015 AND UPDATE ON COMMUNITY CULTURAL PLAN IMPLEMENTATION**

Arts & Culture Program Manager Frances Chapin introduced Edmonds Arts Commission Chair Beverly Shaw-Starkovich. Ms. Shaw-Starkovich explained 2015 was the Edmonds Arts Commission's 40<sup>th</sup> anniversary. The Edmonds Arts Commission (EAC) was established by the City Council in 1975 in recognition of visual, performing and literary arts for the purpose of enhancing the quality of life in Edmonds. The EAC is a group of seven volunteer members who work with the Cultural Services Division on various projects, volunteering hundreds of hours each year and working in partnership with arts organizations and funding partners who help make programs possible. The ongoing mission is to ensure the arts are an integral part of the central identity, quality of life and economic vitality of Edmonds.

Ms. Shaw-Starkovich presented the 2015 annual report. She referred to the annual report in the Council packet and reviewed 2015 highlights:

- Write on the Sound (30<sup>th</sup> year in 2015)
  - Draws attendees from throughout the country
  - Sold out with 275 participants
  - Generated over 75 hotel night stays
- Tourism Promotion Awards to community arts and cultural organizations for advertising events to attract visitors
  - Increased lodging tax revenue allowed award of \$10,000 in 2015
- Free concerts in the park
  - Hazel Miller Foundation funded 12 free concerts at Hazel Miller Plaza
- Manages rotating exhibits of visual arts in Edmonds Library and Frances Anderson Center
- Partners with Arts Festival Foundation on joint exhibits
- Display case in Frances Anderson Center highlights work by local high school students
- Beyond the Fence Program gives artists opportunity to install temporary public art

- Oversees City's art collection of over 150 original pieces with over 40 permanently sited
  - Glass sconces in Council Chambers are part of City's collection
- Flower pole artwork
- Annual Best Book Poster Contest for 3<sup>rd</sup> grade students
- Celebrated City's 125 anniversary
  - Republished "Brackett's Landing," written and illustrated by local artists
- Convened meetings to support implementation of 2014 updated Community Cultural Plan
  - Mini arts summit held in July 2015 to report on progress

Ms. Shaw-Starkovich thanked the City Council and the community for their continued support of the arts and cultural, a key component in the economic vitality and identity of Edmonds.

Ms. Chapin explained Council President Johnson had requested an update on implementation of the Community Cultural Plan which was adopted by Council in 2014. She introduced EAC Student Representative Kyla Blair, remarking she has been a fabulous representative on the EAC, very engaged and will be attending Western in the fall, possibly majoring in communications.

Ms. Chapin thanked the representatives of many different arts organizations in the audience tonight. Edmonds has a very strong arts community and many people have worked hard over the last couple years implementing the CCP. The CCP is a community plan, the strategies are not things just for City or EAC to do but for the entire community. She relayed a comment from one of the participant in the Mini Arts Summit, "Our community is growing the arts, is looking forward and we are all working together."

Ms. Chapin and Ms. Blair presented the Community Cultural Plan Implementation Summary, explaining the EAC was tasked in the CCP as being a convener:

- EAC identified six work group interest areas, based on the 34 strategies in the Cultural Plan
- Meetings focused on four areas:
  - Space for Art
    - Reflect the arts in public space
      - EAC Interim Art Project "Luminous Forest," installation, June 2016
      - City planning for interim Pocket Park adjacent to 4th Ave N, 2016
      - Stages of History walking tour plaques installed, 2014
      - City wayfinding signs, 2014-16
      - Gateways – 5 Corners artwork, 2014, two gateway signs in planning stage, 2016
    - Provide additional space for visual, performing, and literary arts activities
      - Cascadia Art Museum opened, 2015
      - Historical Museum interior remodeled; new exterior Plaza completed, 2015
      - Dayton Street Plaza under construction, small gathering space with art elements, 2016
      - Art Start Northwest, nonprofit, planning new space for visual art and arts education, 2016
    - Use exterior space and promote temporary art installations
      - Hours extended for EAC summer concert series at HMP, 2014
      - Sea Jazz at the Port expanded showcase of student performers and Artists in Action in the summer, 2014-16
      - EAC "On the Fence" temporary art program expanded to include three fences, 2016
      - Temporary exhibit of gallery sculpture outside private businesses, 2015
  - Programs & Events
    - New events and activities that contribute to Edmonds' reputation as a cultural destination
      - CAFÉ Creative Age Festival, over 200 attendees, 2016
      - Chamber's Chowder Cook-off, 2016

- ECA Dementia-Inclusive Series, 2015
  - ECA film series, fall 2016
  - Edmonds Library & EAC family music events series, 2016-17
- Sustain and expand existing cultural events
  - Art Studio Tour celebrated 10th year in 2015
  - EAC Write on the Sound expanded preconference to full day in 2014
  - Olympic Ballet Theater 35th celebration with new production of classic Sleeping Beauty ballet, 2016
  - EAF Foundation, Hazel Miller Foundation, Hubbard Family Foundation, and local businesses – sustaining support for large variety of programs and projects
- Increase variety, diversity and access
  - Edmonds Tunes at Café Louvre, other live music venues
  - Historical Museum with Burke Museum and Tulalip Hilbulb Center, “Salish Bounty” exhibit, 2016
  - Senior Center and EWHS “Generations” project, 2016
  - EPIC Group Writers new free writing groups, 2014-16
  - Edmonds Theatre free Throwback Thursday movie series, 2016
  - First Sno-Isle TEDx at ECA, 2015
  - City established Diversity Commission, 2015
- Communications
  - Enhance communications to attract visitors
  - Strengthen marketing of Edmonds as an arts and culture destination
    - Website, Event Calendar, Marketing
      - VisitEdmonds website and online events calendar, 2014
        - 10 initial posting organizations - now 87
        - 33 events listed first 6 months
        - 260 events now listed annually, increasing
      - Marketing Forums - Economic Development Dept and Snohomish Visitor Bureau, engaging over 15 organizations, 2016
- Arts Education
  - Increase youth and community engagement through outreach opportunities to support building new audiences for arts and culture
  - Outreach/Opportunities – Music Performance
    - DeMiero Jazz Festival, 40th year, artists engage with youth
    - Jazz Connection, opportunities to perform, scholarship program expanded, 2015-16
    - Driftwood summer Drama Camps expanded with new summer Driftwood Teen Troupe, 2016
    - Northwest Steel Magic, new nonprofit, after school steel band orchestras, 2016-17
  - Outreach/Opportunities – Visual/Literary
    - EAF Foundation funded 20 Visual Arts projects for K-12 classrooms in 2014-15
    - EPIC Group Writers established new Literary Contest, 2013-16
    - ECA’s free Artist Residency programs including performance and literary, brings 5 artists into the schools each year, 2014-16
- Also including discussion of:
  - Strong Arts Sector/City of Edmonds
    - Strengthening organizations/ Advocacy at City and State levels
      - EAC partnered with Community Foundation in Everett to offer free trainings for nonprofits, in Edmonds area, 2014 -16
      - Cascade Symphony established Business Alliance with 61 charter members, 2016
      - Historical Museum and Chamber organized events to encourage volunteerism, 2016
      - State Cultural Access legislation providing new opportunities for the future, 2015

- Ensuring arts & culture representation in community planning/Convening the arts & culture community to advance implementation of planning efforts
  - EAC convening work groups for implementation of CCP; 2015 Mini Arts Summit; planning 2017 Arts Gathering
  - City includes cultural representatives on advisory committees, e.g. master planning Marina Beach, Civic Park, downtown restroom and other initiatives, 2015-16
  - City Arts Assistant position restored to full-time, 2016

Ms. Blair relayed further information is available on the EAC's website. She thanked the City Council for creating the student representative position for boards and commissions.

Council President Johnson expressed her appreciation for all the work the EAC and the members of the arts community do, remarking on the thousands of hours devoted to arts that make Edmonds truly an arts community. She thanked Mayor Earling for organizing the original Arts Summit and last year's Mini Art Summit. When she requested an update, she had no idea how much work had been done. Ms. Chapin advised the Community Cultural Plan Implementation Summary, 2014-16 is available on the website. She invited the public to contact her if there was anything missing.

Councilmember Mesaros pointed out when he walks home from Council meetings, he witnesses artists performing in pubs which bring a richness to the community, an aspect of art that not reflected in the summary.

Councilmember Buckshnis recalled the CCP is divided into goals and asked how the goals could be reconciled with the implementation summary. Ms. Chapin explained as the EAC began working with groups, it was clear interest areas did not exactly fit with the organization of goals in the CCP. She pointed out each strategy references the CCP goal. Councilmember Buckshnis inquired about the next update, observing this implementation summary was only through 2016. Ms. Chapin said the implementation summary will be updated again next year; the CCP is updated every seven years.

Councilmember Nelson pledged to look for things that reflect the arts in public space, for example Civic Field and the role of arts in that project. He asked about opportunities in future where the arts can play a role in public spaces. Ms. Chapin responded Cultural Services is part of the Parks Department; during parks planning and streetscape planning opportunities for art are considered. For example, the art-enhanced flower basket poles, 22 are installed and her goal is over 40. Small elements add to the look and feel of the community. Wayfinding signage is not exactly art but aesthetics are important in directing visitors.

Councilmember Fraley-Monillas looked forward to the concerts in the park, remarking she typically attends at least half the concerts and enjoys the variety. She asked how the EAC is connecting with school children and whether a closer connection was planned for the future. Ms. Chapin responded the EAC's main program for children is the Best Book Poster Contest; they work closely with the School District on that visual and literary art event. The EAC also works with the District on artists in the school programs as well as looks for opportunities to support things done by other entities. For example, the EAC supports special programs ECA has done via their educational outreach programs. Councilmember Fraley-Monillas commented children are our future. Ms. Chapin said the Arts Education Work Group wants to meet twice a year to share ideas., recognizing that connecting with youth is very important to build audiences for the future. All the organizations that work with the arts are increasingly focused on ways to connect with youth.

Councilmember Fraley-Monillas inquired about plans for art beyond downtown, recalling artistic streetlights had been installed on Highway 99. Ms. Chapin assured the EAC is always looking for

opportunities but it depends on what projects occur; she has been taking with the Highway 99 subarea consultant about opportunities for public art as well as creating spaces/places for art. Councilmember Fraley-Monillas expressed interest in art in Five Corners, Westgate, Perrinville, etc.

## **6. AUDIENCE COMMENTS**

**Ken Reidy, Edmonds**, relayed his disappointment with last week's discussion about executive session meeting minutes and the lack of information in the agenda packet including information provided by citizens over the past 5-6 years. As the packet did not include the August 6, 1996 Council minutes when Resolution 853 was adopted, he read an excerpt of the minutes into the record:

*City Attorney Scott Snyder advised that following a number of recent Executive Sessions, several citizens contacted the City and asked for minutes from the Executive Session, in some cases stating there is a statutory requirement that the Council maintain minutes of Executive Session. His firm's position is that there is no statute or case law requiring minutes of an Executive Session, although approximately one-third of Washington cities maintain summary minutes of Executive Session. Such minutes are not released to the public until the purpose of the Executive Session has expired. Minutes of Executive Sessions would provide the public a record of the topics discussed in Executive Session as well as a record of verbally issued instructions by the Council. Further, such minutes would assist in reconstructing the record in the event of legal action. He noted staff was concerned with sensitive subject matters, discussed in Executive Session, being in writing. Mr. Snyder stressed the City Clerk would maintain a separate file of Executive Session minutes which would only be reviewed once the purpose of the Executive Session has expired.*

*Councilmember Petruzzi asked if litigation strategy would be held in complete confidence until all appeals were exhausted. Mr. Snyder answered yes. Councilmember Petruzzi was in favor of the creation of summary minutes of Executive Sessions.*

*Councilmember Myers agreed and who would create the minutes. Mr. Snyder advised that was a decision the Council would make; he would be happy to assist with the creation of minutes.*

*Student Representative Alex Moore also favored the creation of minutes of Executive Session.*

*It was the consensus of the Council to create summary minutes of Executive Sessions. Mr. Snyder advised he would prepare a Resolution for the next Consent Agenda.*

Before the Council made any major changes to Executive Session meeting minutes, Mr. Reidy requested citizens have plenty of opportunity to weigh in regarding their wishes. He said minutes of Executive Session were badly needed as Council needed the opportunity to go back to review what they were told in executive session in the event they were provided false, misleading, or incomplete information.

**Roger Hertrich, Edmonds**, observed Councilmember are sitting in same seats at every meeting, four to one side of the Mayor and three to the other and often votes are cast in that same manner. He recommended Council seating vary to provide Councilmembers an opportunity to get to know each other better.

## **7. PUBLIC HEARINGS**

### **1. CIVIC PLAYFIELDS RIGHT-OF-WAY VACATION**

Planner Sean Conrad explained the public hearing is related to the vacation of two street rights-of-way and an alley right-of-way in Civic Playfields. He displayed an aerial photo of the Civic Fields, advising the site is approximately 8 acres, zoned for public use, bordered on the west by 6<sup>th</sup> Avenue North, 7<sup>th</sup> Avenue North on the east and two public alleys on the north and south.

Mr. Conrad displayed a Civic Field site map, explaining the right-of-way vacation was for what would have been an extension of Edmonds Street on the south end, Sprague on north end and an alley in between. Both rights-of-way were never developed and are now located in the middle of what is now essential park. The development code establishes two criteria for Council consideration in granting a right-of-way vacation:

1. Is the street vacation in the public interest?
  - Yes, vacating the street right-of-way is in the public interest as this is a public park and would further the development of a public park
2. Will the street vacation deny access to the property?
  - No, vacating the rights-of-way will not deny access to this public property as there are public streets on the east and west sides and public alley on the north and south sides.

In addition to these criteria, the right-of-way vacation is also consistent with Comprehensive Plan and specifically the Parks, Recreation and Open Space (PROS) Plan as it will enable the Parks Department to master plan for further development of this city park. The City has received no comments regarding the proposed right-of-way vacation.

Mayor Earling opened the public participation portion of the public hearing.

**Ken Reidy, Edmonds**, referred to ECDC 20.70.020 which states the City Council may vacate a street, alley or easement only if it finds that A, a vacation is in the public interest and B, no property will be denied direct access as a result of the vacation. However a third criteria has been used in the past during street vacations. Former City Attorney Scott Snyder stated on September 16, 2008 that direct access was not the only access issue the City Council had to consider when vacating a right-of-way. Mr. Snyder said State law also states access should not be substantially affected. Mr. Snyder did not provide the related RCW, an explanation of how access could be substantial affected, or how that would be different from denying someone direct access to their property. Mr. Snyder did not define access but later acted as if the word “access” had very broad meaning and this issue mattered even if no one had a permit or vested right to use the right-of-way being vacated.

Mr. Reidy referred to RCW 35.79 that addresses street vacation, noting the word “substantial” is not found in that statute. The Council must know whether this is an issue that must be addressed before vacating rights-of-way. He explained Mr. Snyder was talking about an unopened easement that had never been used for access, just like those at Civic Field. He questioned how something never opened for access substantially affect someone’s access. The easement area Mr. Snyder was referring to was not only an unopened right-of-way but also only 7½ feet wide, not wide enough for legal access. Despite this Mr. Snyder made a huge point that access should not be substantially affected and repeatedly advised the Council to do something about it the night of September 16, 2008. This concept had a major impact on the course of his (Mr. Reidy’s) life. As Mr. Snyder went to great lengths to push this concept, the City has a duty to clarify; the easements at Civic Field are wide enough for access so there may be greater liability exposure at Civic Field. Before approving the Civic Playfield right-of-way vacations, he requested the Council provide the State law that Mr. Snyder sited, relaying citizens deserve to know whether the three proposed vacation will expose the City to liability.

**Finis Tupper, Edmonds**, said when the City codified its ordinances in 1980, it ended the Board of Adjustment and created the Hearing Examiner. The Hearing Examiner’s position was given certain authorities as outlined in ECDC 10.35.010. He relayed the Council is unable to act on this agenda item tonight because the Hearing Examiner was given the authority to hold the hearing on all street vacations and dedications per paragraph F. Therefore, none of the criteria or the staff recommendation would be lawful. He referred to a recent unpublished case Lake Forest Water District against the City of Lake Forest, stating if the City passed an ordinance affecting these street vacations, it will be null and void

without a Hearing Examiner recommendation to City Council. He was uncertain how that section of the code was bypassed, commenting the Mayor was responsible for enforcing and ensuring laws are followed.

Hearing no further comment, Mayor Earling closed the public participation portion of the public hearing.

Councilmember Fraley-Monillas requested staff respond to Mr. Tupper's comments regarding the need for a recommendation from the Hearing Examiner. Development Services Director Shane Hope answered she was not aware of that provision. City Attorney Jeff Taraday said the provision Mr. Tupper read references another code section that no longer exists. The full provision that Mr. Tupper read from states, the Hearing Examiner will review the Comprehensive Plan and report on the same prior to any street vacation or dedication as provided in ECDC 15.05.020; section 15.05.020 no longer exists; therefore, it was unclear what weight if any would be given to that language. It appears the language has not been amended since 1983. There appears to be a conflict between the language Mr. Tupper cited and the language referenced in the staff report, 20.70.070, that states the City Council shall by resolution fix a time when the City Council will hold a public hearing on the proposed vacation. To the extent that these are in conflict, the more recent would prevail; the more recent was adopted in 1993. He concluded staff was proceeding correctly.

Councilmember Buckshnis referred to the language in ECDC 15.05 that references the Comprehensive Plan and states the Hearing Examiner will review the Comprehensive Plan and report on same prior to any street vacation or dedication. Mr. Taraday said the code section referenced is no longer in the code. The language states the Hearing Examiner will review the Comprehensive Plan and report on the same prior to any any street vacation or dedication as provided in ECDC 15.05.020; without the existence of that section, the language cannot be properly implemented. Therefore, it is proper to process this pursuant to ECDC 20.70.

Councilmember Buckshnis questioned why the Hearing Examiner would be responsible for vacating. Mr. Taraday said the Council has the authority to delegate hearings to the Hearing Examiner and apparently that was done at one point. There is now conflicting code language and the more recently adopted code puts the decision in the Council's hands.

Councilmember Teitzel commented the City now owns Civic Playfield as well as the rights to the three easements. Ms. Hite answered yes. Councilmember Teitzel said hypothetically if the easements were not vacated, no party other than the City could request they be opened. Ms. Hite answered yes.

Councilmember Teitzel repeated his question at Mr. Taraday's request; since the City owns Civic Playfields and the rights to the three easement, no party other than the City, the owner, could request they be opened. Mr. Taraday asked for clarification of "owned the rights to the three easements." Councilmember Teitzel asked whether any party other than the City could legally request those easements be opened. Mr. Taraday asked if by "opened" he meant approved as streets. Councilmember Teitzel answered yes, opened as a street. Mr. Taraday responded there is no right that a non-abutting owner would have to require the City to open a street.

Councilmember Teitzel said if the City did not pursue the vacation, could the City use the property as it chose, build structures on the easement at its own peril and potentially remove them if the easements were ever opened. He noted that was unlikely to happen as the City wanted to keep it as park space into perpetuity. Mr. Taraday said the Council is not required to take this action; in his opinion not taking this action was inconsistent with the current plan to operate it as a park but it was not required.



Councilmember Teitzel commented if the City did not pursue easement, the intent was to keep it as park space forever; vacating the easement achieves the same intent. Mr. Taraday said if in a 100 years a Council wanted to put a street through Civic Field, the City would still own the property. The deed restriction could potentially be an issue. Councilmember Teitzel summarized whether the City pursues the easements or not, the result is the same; the City has full use of the property. Mr. Taraday agreed. Ms. Hite said the PRO Plan speaks to master planning and developing the property as a park; a future Council could make a different decision and open the streets but there would still be the issue of the deed restriction.

Councilmember Fraley-Monillas asked about the implications of the grant restrictions on the Boys & Girls Club, recalling the property was purchased as open space. Ms. Hite answered the City received two grants for the purchase of the property, from Conservation Futures Snohomish County and Washington State Recreation and Conservation Office. Both restrict the land to open space and park development; no structures are allowed, a certain percentage of impervious surface is allowed but no more than 10% which does not include pathways. The City purchased 6.07 acres from the School District; the other 2 acres were determined to be owned by the City via the streets and alley. The City negotiated with Snohomish County and the State to concentrate those two acres in the northwest portion of the property so there is a 2-acre parcel within the 8 acres that can be developed with structures. That area is where the Boys & Girls Club, basketball and tennis courts and skateboard park are currently located.

Councilmember Fraley-Monillas relayed her understanding if the Council did not proceed with the street vacation, it had no impact on the northwest corner. Ms. Hite answered no, it has impact; the six acres are restricted and those include parts of Sprague and Edmonds Street and the alley.

Councilmember Buckshnis referred to 35.79.035 cited by Mr. Reidy, limitations on streets abutting bodies of water, pointing out it has no relevance to Civic Field. Mr. Taraday agreed although he did not recall Mr. Reidy's exact comment. He said Mr. Reidy's reference to substantial impairment of access did not apply here. He was not prepared to speak to it tonight as it is doctrine developed through Washington case law, not the statute but it did not apply to this scenario.

Mr. Taraday advised the packet did not contain an ordinance; the intent was for the ordinance to be scheduled for action on a future Consent Agenda.

It was the consensus of Council to schedule consideration of the ordinance on a future Consent Agenda.

## **8. ACTION ITEMS**

### **1. CIVIC CENTER FIELD MASTER PLAN PSA**

Parks & Recreation Director Carrie Hite requested Council authorization to enter into a professional services agreement with Walker | Macy for the Civic Center Master Plan. The master plan was included in the CIP and authorized in the budget. The budget for this planning process was \$100,000. An RFQ was published shortly after closing on the property; 8 responses were submitted and Walker | Macy was selected following and interview/presentation process. A professional services agreement was drafted for the Mayor's signature; the scope of work was \$96,000. At the Council kick-off meeting, the Council expressed interest in a historical analysis of the Boys & Girls Club building and the stadium as part of the process. She approached Walker | Macy who revised their scope of work and added approximately \$10,000 to include a sub-consultant, BOLA, to do a historical analysis. The proposed historical analysis in the scope of work will include taking a historical inventory of the uses, materials of both and creating a historic resources report for consideration when master planning the project and making decisions on those structures.

This change to the scope of work increases the cost of the master planning process to \$106,000. She requested Council authorization for the Mayor to sign the professional services agreement for the scope of work contained in the packet for \$106,980. Staff will return with a budget amendment for the additional \$6,980. She noted professional services agreements do not typically have a management reserve.

Councilmember Tibbott asked whether the consultant considered the possibility of a historical analysis without adding to the budget. Recognizing there would be a great deal of citizen involvement, he suggested having citizens do the historical analysis. Ms. Hite agreed she could ask; the Historic Preservation Commission (HPC) was a possibility. It depends on what the Council wants; whether they want a report with dedicated time and energy or using volunteers guided by the consultant team.

Councilmember Teitzel was excited to begin this project. He suggested involving the HPC before engaging BOLA to do an analysis; the HPC could analyze whether the Boys & Girls Club and the grandstand would qualify for local historic designation status and if not, stop there. He questioned what else would be learned via investing \$10,000 in BOLA's report. Ms. Hite answered that could be done first if the Council wished. She preferred to proceed with a professional services agreement with Walker | Macy as they are already working and delay the historic analysis component of the agreement if necessary. If the Council was interested in involving the HPC and/or citizens, staff could return at a later date for an addition to the agreement if local resources cannot be identified.

Councilmember Teitzel commented he was looking for ways to manage taxpayer money. He asked whether other Councilmembers felt having the HPC investigate and reach their own conclusion before proceeding with the historic resources report by BOLA would be a prudent approach. He asked whether that could be done and not hold up Walker | Macy proceeding with the master plan. Ms. Hite answered that could be done if the proposed scope of work were changed to remove the BOLA subcontract. The original contract for the robust master planning process without BOLA was \$96,000. The Mayor could sign that professional agreement with Walker | Macy and work with the HPC could be done parallel to that process. If the HPC indicates they do not have the capacity or time, she likely would return to Council for guidance whether to proceed with a more official historical analysis of those two structures. Councilmember Teitzel agreed with taking that step, finding it a prudent step to potentially save taxpayers \$10,000.

Councilmember Buckshnis relayed her understanding the grandstands need to be retrofitted and thousands of dollars would be required to upgrade it. Ms. Hite relayed staff is in the process of doing a structural analysis on the grandstands. They are not in very good shape; keeping them on the property will require a great deal of upgrading and retrofitting. An option would be to wait until the structural analysis is completed; if the recommendation is to take the grandstands down, that could be discussed with the HPC and Council. There is an HPC member on the Project Advisory Committee (PAC); she spoke to the PAC recently about not everything historical is necessarily significant, it depends on the condition and whether it is worth keeping in the community.

Councilmember Buckshnis commented the direction needs to be determined; the grandstands may not be a pertinent part of that park as they are very large and take up a lot of room. She supported moving forward as the packet states. Ms. Hite clarified the agreement in the packet includes the additional historical analysis. She asked whether the Council was interested in proceeding with the original scope, omitting the historical analysis. If so, the Mayor has the authority to sign that professional services agreement. Councilmember Buckshnis agreed with removing the historical analysis.

Councilmember Nelson agreed with Councilmember Teitzel's idea about holding off on the historical analysis based on the additional cost.

Council President Johnson asked whether the structural analysis was part of the current contract and if not, who was doing it and what was the cost. Ms. Hite answered it is not part of the Walker | Macy contract; the City's facilities team is performing that analysis. As the City owns the property, it is part of the due diligence to determine if it's safe and the estimated cost to repair it. Public Works Director Phil Williams advised staff has not yet selected a contractor but that is the direction staff would like to go. He acknowledged there are structural liabilities as well as a great deal that would need to be done to make the grandstands ADA compliant. It is an old wooden structure and a large investment would be required to continue its life. That is the division's opinion now; staff plans a professional analysis performed to determine what would need to be done. That information will be provided to the Parks Department for further discussion.

Councilmember Fraley-Monillas said she was not as worried about the grandstands as the Boys & Girls Club which likely has some significant historical reference. She noted the grandstands are currently used for the youth circus and during the Taste of Edmonds. She was concerned about the safety of the grandstands and suggested if there were any thoughts there were dangerous parts of it, people should be kept off of it. Mr. Williams recalled two years ago the recommendations of a structural engineer were followed to address issues with the center structural support. He acknowledged similar work may be necessary in other parts of the structure if there is interest in extending the life of the grandstands. The bigger issues include bringing the grandstands up to ADA compliance, slips, trips, falls, splinters, slippery surfaces, seating, size of the steps, etc. He summarized much of that would be incredibly expensive to fix and it may not be worthwhile. If seating is desirable, there are many options such as portable bleachers. He relayed that Ms. Hite, Tom Sullivan and he have discussed these issues at length and decided get a structural analysis to provide a list of investments that would need to be made, anticipating it would be an impressive list.

Ms. Hite said the intent was to return to Council with that list and have a discussion regarding the grandstands. During the next month the HPC can also look at the grandstands. Another impact if the grandstands are removed is the tremendous amount of storage under the grandstands that nearly every community group in the City uses; approximately 50% of the storage is Park Department such as downtown decorations, lights, etc.

Councilmember Fraley-Monillas commented she, Council President Johnson and Ms. Hite may be the only ones who used the grandstands back in the 1970s. They were meant for kids, not adults.

Council President Johnson commented after listening to all the concerns, it appears there is a three step process; Mayor Earling signing the Walker | Macy without the historical analysis and moving forward with the HPC evaluation before spending money on a construction engineer to evaluate the grandstands. It appears there is a need for more information from an historic, structural and risk management standpoint. Ms. Hite asked for clarification, whether Council President Johnson's intent was to have the HPC look at the grandstands from a historical perspective before spending money on a structural analysis. Ms. Hite recommended proceeding with a structural analysis due to the safety issue and the HPC will not be able to determine the structural integrity, only the historical significance. She recommended that be a parallel process, not first the HPC and then the structural analysis.

**COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER TEITZEL, TO AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT FOR WALKER | MACY, EXCLUDING THE HISTORICAL ANALYSIS IN THE PACKET. MOTION CARRIED UNANIMOUSLY.**

**COUNCIL PRESIDENT JOHNSON MOVED TO MOVE EXPEDITIOUSLY ON THE HISTORICAL PRESERVATION COMMISSION ANALYSIS OF THE PROJECT AND**

**SEQUENCE THAT WITH ANY FUNDS SPENT ON THE FACILITIES EVALUATION. AND  
MAYBE AUTHORIZE BOTH AT A FUTURE MEETING.**

Mr. Williams said if the intent is to start the process internally there is lot that can be done without outside consulting to identify issues in the current structure; but staff will need assistance with identifying structural issues.

**MOTION CARRIED UNANIMOUSLY.**

Councilmember Teitzel referred to the comments about safety and structural integrity, observing 4<sup>th</sup> of July is coming up soon. He asked whether it was safe to allow the stands to be used to 90% capacity for watching fireworks this year. Mr. Williams said there is time to develop a list of issues. When the one problem was addressed a couple years ago, it was felt the grandstands were probably structurally okay for a while and they are probably still okay and not in imminent danger of collapse. There are so many deviations in that old structure from current codes that they begin to accumulate. He recommended any use be limited and not expanded from historical uses. There is enough time to compile information about what is needed before a decision is made regarding the 4<sup>th</sup> of July. Councilmember Teitzel summarized the team would do an analysis and if a major issue is identified, people can be kept out of the grandstands if necessary. Mr. Williams agreed.

**9. STUDY ITEMS**

**1. AUTHORIZATION TO CONTRACT WITH JAMES G. MURPHY TO SELL SURPLUS  
CITY EQUIPMENT**

Public Works Director Phil Williams relayed the proposal to surplus two vehicles, a ten-year old Dodge Stratus that has been the Police Chief's daily driver and more recently as a loaner car and parts car for the fleet department. He estimated the auction value at \$2500. The Police Chief's car has since been replaced. The second vehicle is a 1996 vactor that was replaced last year. Depending on buyers at the auction, the estimated value is \$50,000; a new vactor is \$450,000. He requested authorization to surplus the two vehicles.

It was the consensus of the Council to schedule approval on the Consent Agenda.

**2. FISHING PIER REHABILITATION PROJECT REPORT**

City Engineer Rob English explained the purpose of this presentation was to provide information on a change of condition that had been encountered on the fishing pier project. The contract was awarded to Razz Construction in February 2016 and the contractor was issued a notice to proceed in mid-March. The scope of the original contract was primarily minor edge repair and concrete spalls under the cure deck and pier supports. He displayed a photograph illustrating the corrosion, explaining the original scope, replacing the rebar in the precast section that supports the deck. The portion of concrete and rebar exposed and chipped away was on the precast section that supports the pier deck. The interface between the pier deck and the precast section is where the problem is. At the time the pier was constructed in the 1970s, the joint between the precast section and the cast-in-place section was not properly prepared and allowed water intrusion within the joint. He displayed a photograph illustrating the cast-in-place pier deck on top of the precast section where two existing rebar in that section that have experienced corrosion based on that intrusion through the joint both on the west and east side of the pier.

The contractor was directed to do cuts within the pier to begin evaluating how extensive the damage was. He displayed a photograph illustrating the testing that occurred and the two corroded rebar in the cast-in-place section. Not only has the precast portion been damaged but the upper portion has as well. In

addition, the rebar did not have proper coverage and was sitting on the joint between the interface between cast-in-place section and the precast section when it should have been higher with coverage away from the joint. Based on evaluations and testing done by the consultant, the recommendation is an edge repair on both sides which includes cutting back 9 inches from the edge of the pier and reconstructing it with new rebar and anodes. The contractor submitted a cost proposal late last week for the actual work; there will be related costs for project overhead and costs associated with such a significant change to the project scope that are not yet available.

Mr. English reviewed the funding source and project costs:

<b>Funding Source</b>	<b>Amount</b>
132 Parks Fund	\$100,000
Recreation and Conservation Office Funding	\$800,000
Aquatic Lands Enhancement Account Funding	\$500,000
Department of Fish and Wildlife Funding	\$190,000
Total Funding	\$1,590,000
<b>Project costs</b>	<b>Amount</b>
Contract award	\$1,004,318
Estimated extra construction costs	\$424,525
Estimated construction management costs	\$311,447
Design	\$138,200
Additional management reserve	\$100,000
Estimated total	\$1,978,470
<b>Estimated shortfall</b>	<b>\$388,490</b>

Mr. English advised the contractor was provided notice to proceed with the edge repair on Friday to mitigate delay costs that would be experienced by not having the contractor proceed with repairs. That work began yesterday. He anticipated this week the contractor would provide the overall impact to the schedule as well as the project overhead costs related to the change in the project scope. A change order is in process for ADA changes to the rail on the side of the pier; the estimated cost is included in the above project costs.

Parks & Recreation Director Carrie Hite advised the pier is owned by the Department of Fish & Wildlife; the City is a partner by maintaining the pier. The City also contributed \$100,000 in addition to the grants received. She and three Fish & Wildlife representatives did a site visit today. She also has a call into the RCO; the City scored well in another category which was not funded so she is inquiring regarding the availability of any additional funds. Fish & Wildlife did not have a solution and are working with their director in Olympia and likely legislative representatives. Identifying \$400,000 from another budget will require legislation action/support. The shortfall is actually \$288,000 plus an additional \$100,000 management reserve. She was hopeful there will not be any other surprises with the pier but cautioned the above costs are estimates at this time.

Councilmember Buckshnis asked if there was a way to do an interlocal or bridge loan with Fish & Wildlife. Ms. Hite said there was discussion with Fish & Wildlife about an interfund loan in 2016 with additional funding provided during the legislative session; Fish & Wildlife representative will work with the director on that option. Fish & Wildlife is looking for funding; if they are unable to identify funds one of the options will be to close the pier until the funds are identified. A bridge loan and discussions with RCO are options for discussion. Councilmember Buckshnis commented there are funds in REET and asked whether funds in Fund 125 and 126 could be used for this project. Ms. Hite answered yes.

With the flaws in construction and the anticipated fixes, Councilmember Tibbott inquired about the likelihood this project would be durable into the future and how long these fixes would last and what kind of maintenance would be expected. He recalled the State wanted to give the City the pier, noting it would then be the City's responsibility. Public Works Director Phil Williams agreed that was a decision for the future but it would need to be repaired to the City's satisfaction. He recalled two structural analyses were done on the pier before beginning this project and a question could be asked why this wasn't discovered in that analysis. The answer is the pier wasn't built in accordance with the approved plans that were reviewed so the structural analysts were analyzing the pier as it was supposed to have been built and made decisions about testing based on that information. The fix that staff has asked the contractor to estimate was suggested by the structural engineer. With the anodes in place, they estimate it will provide an additional 40 years of life. The pier has been in place approximately 38 years.

Council President Johnson asked whether there was a 15% management reserve that could be accessed toward this repair. Mr. Williams answered that is already factored into the numbers above. It is important to continue to maintain a management reserve. He hoped those funds would not be necessary, anticipating most of the unknowns have been encountered but it was prudent to maintain a management reserve. If the management reserve was not spent, the shortfall would be less.

Council President Johnson observed 15% of approximately \$1.6 million was approximately \$234,000. She asked whether that was a potential funding source. Mr. Williams said when the Council approved the construction budget, the management reserve was 10% of the contract award, \$1.004 million or approximately \$100,000. Council President Johnson clarified the request was for an additional management reserve. Mr. Williams explained the request was for a management reserve in addition to the estimated costs. Ms. Hite clarified the original management reserve has been spent and is included in the numbers above. The request is for an additional management reserve in the event additional unanticipated issues arise.

Council President Johnson observed the intent was to repair the outer 9 inches, but it appears the preformed and cast were not well manufactured in place. She asked whether there was the potential for additional deterioration in the remainder of the deck if the analysis had gone further and whether all the problems would be solved or only part of it. Mr. Williams agreed there was undoubtedly additional corrosion but the anodes will stop the corrosion from proceeding further for 30 years. After that time, the structural engineers indicate the anodes will begin to slowly corrode again which would provide at least an additional 10 years, thus the 40 years of estimated life. Repairing the sides will prevent water from entering that area.

Council President Johnson asked whether the City wants to assume responsibility for the pier in the future. Ms. Hite responded that is yet to be determined and will definitely be a future discussion. She recalled Fish & Wildlife wanted the City to assume ownership before the capital repairs; it was agreed the capital repairs would be done first followed by consideration of the City taking over ownership.

Councilmember Teitzel relayed it appeared the original contractor did not follow the plans and used substandard construction practices that led to saltwater intrusion and corrosion. He asked whether the original contractor bore any liability for this cost. Mr. Williams relayed Fish & Wildlife has 40 of these piers throughout Puget Sound, built by the same contractor; that will be one of their concerns. City Attorney Jeff Taraday said his best guess is the contractor no longer exists.

#### **10. MAYOR'S COMMENTS**

Mayor Earling announced the next Town Hall on June 2 at the Meadowdale Club House.

#### **11. COUNCIL COMMENTS**

Councilmember Tibbott reminded of the Highway 99 open house on Thursday. He planned to attend, recalling the great first public open house a month ago and he looked forward to hearing the results.

Councilmember Mesaros reminded of the Senior Center auction on Friday evening.

Councilmember Teitzel reminded of the Edmonds Jazz Connection on Saturday at the Edmonds Center for the Arts and the Holy Rosary Church from 9:00 a.m. to 7:00 p.m. Great entertainment, admission is free, and donations are gladly accepted.

Council President Johnson encouraged the public to go to VisitEdmonds.com where the 300 events by 33 arts organizations are listed. She invited the public to the Police Department awards ceremony at 6:00 p.m. on Thursday and the Highway 99 open house at Swedish-Edmonds 4<sup>th</sup> Floor at 7:00 p.m.

Councilmember Fraley-Monillas announced the hiring of the Council Assistant, Andrew Pierce. He starts June 1 and she requested Councilmember give him a couple weeks before assigning him projects.

Councilmember Nelson referred to the Edmonds Jazz Connection sponsored by Daybreak Rotary, relaying he heard Edmonds-Woodway High School play on KPLU last week and they sounded phenomenal. He invited the public to hear them and others at the Edmonds Jazz Connection on June 21.

Councilmember Nelson thanked Mayor Earling and Police Chief Compaan for the proclamation regarding National Police Week. He reported of the 36 officers killed in the line of duty so far this year, one was an officer in Danville, Ohio, a 6-member department, who was killed merely because someone decided they wanted to kill a police officer. Another who died this last Monday, a detective in Kansas City who was assisting officers on a suspicious person call was shot and killed by a suspect who went on to commit three carjackings including one involving children and shot another person before being apprehended. He highlighted these to recognize the challenges the law enforcement community faces. The National Law Enforcement Officer Memorial in Washington, D.C. includes the quote, "In valor there is hope." He said as long as there are men and women who choose to serve and protect us from those who wish to do harm, knowing the dangers they face every day as officers, there is hope.

Councilmember Buckshnis said she will be out of town next week and will miss the Hazel Miller spray pad opening on Thursday at 4:30 p.m. On Thursday she will be at the WRIA 8 meeting where she will learn whether funding was provided for the marsh.

**12. CONVENE IN EXECUTIVE SESSION REGARDING PENDING OR POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)**

This item was not needed.

**13. RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION**

This item was not needed.

**14. ADJOURN**

With no further business, the Council meeting was adjourned at 9:02 p.m.